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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,109	10/29/2004	Cheng C. Ko		3411
7590	06/14/2005		EXAMINER	
John M. Card Brinks Hofer Gilson & Lione PO Box 10395 Chicago, IL 60610			ECKERT II, GEORGE C	
			ART UNIT	PAPER NUMBER
			2815	
DATE MAILED: 06/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/502,109	KO ET AL.	
	Examiner George C. Eckert II	Art Unit 2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 8,9 and 16-19 is/are allowed.
- 6) Claim(s) 1-7 and 10-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

*Response to Amendment*

1. Applicant's amendment dated April 7, 2005 in which claims 1, 8, 9, 10 and 16 were amended has been entered.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by 5,581,087 to Uddin et al. (of record). Regarding claim 1, Uddin et al. teach in figure 1, a photodiode comprising:

a first p-type semiconductor layer 10;

an n-type semiconductor layer 12; and

a second p-type semiconductor layer 11 disposed between the first p-type layer and the n-type layer such that the second p-type layer 11 is directly adjacent to the n-type layer, the second p-type layer having a graded doping concentration (col. 4, lines 53-59).

Regarding claims 2 and 3, Uddin et al. teach anode 13 and cathode 14 affixed to the device to collect holes and electrons respectively.

3. Claims 1-3, 7 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by 5,016,073 to Elliott et al. Regarding claims 1, 7 and 10, Elliott et al. teach in figure 1, a photodiode comprising:

a first p-type semiconductor layer 12;

an n-type semiconductor layer 16; and

a second p-type semiconductor layer 14 disposed between the first p-type layer 12 and the n-type layer 16 such that the second p-type layer 14 is directly adjacent to the n-type layer 16, the second p-type layer having a graded doping concentration with a higher concentration adjacent the first p-type layer 12 (col. 4, lines 15-16).

Regarding claims 2, 3, 11 and 12, Elliott et al. further teach the device comprises an anode 22 and a cathode 24.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-6 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saito. Saito taught the device and method of claims 1 and 10 respectively but did not teach the specific materials instantly claimed (InAlAs and InGaAs). However, Saito did teach that it was known in the art to use III-V heterojunctions as photodiode materials (col. 1, lines 29-35). Furthermore, InAlAs and InGaAs are well known in the art and commonly used in photodiode

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devices. As such, it is considered obvious to use the instantly claimed materials as they are merely a substitution in kind.

*Allowable Subject Matter*

5. Claims 8, 9, 16-19 are allowed.

*Response to Arguments*

6. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references teach P-P-N photodiodes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Eckert II whose telephone number is (571) 272-1728.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (571) 272-1664. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GEORGE ECKERT  
PRIMARY EXAMINER